

## **REMARKS**

Reconsideration and withdrawal of the examiner's rejections under 35 USC §§ 102 and 103 are respectfully requested in view of the above amendments and the following remarks.

Claims 1, 11 and 14 have been amended to describe the present invention in terms of the mouth dissipation parameter; also to specify that the edible emulsion is an oil-in-water emulsion or a multiple emulsion comprising an oil-in-water phase, support for which may be found in claim 2 which has been canceled, without prejudice.

Claim 1 has been further amended by incorporating the subject matter of claims 2 and 5 (citrus or non-citrus fibers) which has been canceled, without prejudice.

Claims 1 and 11 have been further amended to specify the edible emulsion comprising less than 1% by weight carbohydrate.

Claim 9 has been amended to specify that at least about 85.0% of all droplets present have a diameter that is greater than about 8.0  $\mu\text{m}$ . Claim 10 has been amended to specify that at least about 95.0% of all oil droplets present are less than 5  $\mu\text{m}$ .

Claim 11 has been amended to incorporate the subject matter of claim 12, which has been canceled, without prejudice.

Claim 14 has been amended to incorporate the subject matter of claim 15, which has been canceled, without prejudice.

Claim 14 has been further amended to specify that the insoluble fibers have a length from 25 to 400 microns and a width from 3 to 20 microns.

Care has been taken not to introduce any new matter.

### The Present Invention

An edible emulsion with insoluble fiber is described. The edible emulsion is an oil-in-water emulsion or a multiple emulsion comprising an oil-in-water phase. The edible emulsion is suitable for use as a base for making reduced oil food products. The reduced oil food products made with the edible emulsion having insoluble fiber have consumer acceptable viscosities and texture and sensorial properties consistent with full fat food products. A critical sensorial property is that 2 ml of the emulsion will completely dissipate in a mouth of a consumer within 60 seconds. This is achieved by limiting the amount of carbohydrate within the edible emulsion.

The Present Claims As Amended Are *Not Anticipated or Obvious* Over Watanabe '981

While the anticipation and obviousness rejections over Watanabe '981 are respectfully traversed (among other reasons, certainly claim 25 cannot be anticipated as it is a carbohydrate free product, whereas Watanabe '981 requires carbohydrate), the rejections have been rendered moot by the current claim amendments. A critical sensorial property made an element of the independent claims is that 2 ml of the emulsion will completely dissipate in a mouth of a consumer within 60 seconds. This is achieved by limiting the amount of carbohydrate within the edible emulsion. In addition, the rejections have also been rendered moot by incorporating in the independent claims the subject matter of claim 2, which was not rejected over Watanabe '981.

The Claims Are Not Anticipated Over Weibel (EP 0295865 or US 4,923,981)

Claims 1, 24, 5-7, 11, 13, 14, 16, 18, 19, 24 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by Weibel (EP 0295865 or US 4,923,981). According to the Office Action, Weibel discloses comestibles containing parenchymal cell cellulose from sugar beet (page 5, lines 38-56).; In example 4, mayonnaise is made.

While the anticipation rejections over Weibel '981 are respectfully traversed, the rejections has been rendered moot by the current claim amendments. A critical sensorial property made an element of the independent claims is that 2 ml of the emulsion will completely dissipate in a mouth of a consumer within 60 seconds. This is achieved by limiting the amount of carbohydrate within the edible emulsion. In addition, the rejections have also been rendered moot by incorporating in the independent claims the subject matter of claim 2, which was not rejected over Watanabe '981.

Moreover, in the interest of progressing the present application to issuance without delay, independent Claim 1 has been amended to incorporate the subject matter of claim 2 which has not been rejected; independent Claim 11 has been amended to incorporate the subject matter of claim 12 which has not been rejected; and independent claims 14 has been amended to incorporate the subject matter of claim 15 which has not been rejected as anticipated by Weibel '981.

Clearly, there is no anticipation.

The Claims Are Not Anticipated Over Bunger, et al. (5385748)

Claims 1, 2, 5, 11, 14 and 16 were rejected under 35 U.S.C. 102(b) as being anticipated by Bunger, et al. (5385748). According to the Office Action, Bunger discloses a beverage thickener emulsifier system.; The product is disclosed to be an oil-in-water emulsion (abstract).; The fiber that may be included is citrus fiber (column 8, lines 30-42).

While the anticipation rejection over Bunger '748 is respectfully traversed, the rejection has been rendered moot by the current claim amendments. A critical sensorial property made an element of the independent claims is that 2 ml of the emulsion will completely dissipate in a mouth of a consumer within 60 seconds. This is achieved by limiting the amount of carbohydrate within the edible emulsion.

Moreover, in the interest of progressing the present application to issuance without delay, independent Claim 11 has been amended to incorporate the subject matter of claim 12 which has not been rejected; and independent claims 14 has been amended to incorporate the subject matter of claim 15 which has not been rejected as anticipated by Bunger '748.

Clearly, there is no anticipation.

Contrary to the above references, the present invention as set forth in independent claim 1 is directed to an edible emulsion comprising:

- (a) oil;
- (b) water; and
- (c) insoluble fibers, wherein the insoluble fibers are citrus or non-citrus;

wherein the edible emulsion is coarse or smooth, comprises less than 1.0% by weight carbohydrate, and 2 ml of the emulsion will completely dissipate in a mouth of a consumer within 60 seconds; and

wherein the edible emulsion is an oil-in-water emulsion or a multiple emulsion comprising an oil-in-water phase.

Among other important claim elements, the mouth dissipation parameter is not disclosed or suggested in the cited references.

Independent claim 11 is directed to a method for making the edible emulsion of claim 1 wherein oil, water, insoluble fiber and emulsifier are mixed to make a coarse emulsion; and the coarse emulsion is recovered and is homogenized in a homogenizer pressurized from about 35.0 to about 650.0 bar and at a temperature from about 15°C to about 70°C to produce a smooth emulsion. The edible emulsion that is made is an oil-in-water emulsion or a multiple emulsion comprising an oil-in-water phase, comprises less than 1% by weight carbohydrate and 2 ml of the emulsion will completely dissipate in the mouth of the consumer within 60 seconds. Among other important claim elements, the mouth dissipation parameter is not disclosed or suggested in the cited references.

Independent Claim 14 is directed to a food product having an edible emulsion that comprises:

- (a) oil;
- (b) water; and
- (c) insoluble fibers

wherein the edible emulsion is coarse or smooth, the insoluble fibers have a length from 25 to 400 microns and a width from 3 to 20 microns and 2 ml of the food product will completely dissipate in the mouth of a consumer within 60 seconds. The insoluble fibers have a length from 25 to 400 microns and a width from 3 to 20 microns. The edible emulsion is an oil-in-water emulsion or a multiple emulsion comprising an oil-in-water phase. The food product has a viscosity greater than about 3,000 centipoise and less than about 150,000 centipoise.

Independent claim 1 is further defined by the dependent claims which claim, among other things, the type of oil that may be employed, the amount of oil that may be employed, the type of insoluble fibers that may be used, the amount of insoluble fiber used, the amount of emulsifier used, the HLB of the emulsifier and oil droplet size distribution, and the order of addition of acidulants.

Independent claim 14 is further defined by the dependent claims which claim, among other things, the type of food product, the type of emulsifier and the amount of carbohydrates present.

None of the references relied on by the Examiner even remotely describe the claimed invention. This is true because the claimed invention is directed to an edible emulsion, a method for making an edible emulsion and a food product comprising the edible emulsion wherein the resulting emulsion that is used and the food product

prepared therefrom can completely dissipate in a mouth of a consumer within 60 seconds. This is achieved by limiting the amount of carbohydrate within the edible emulsion. Unexpectedly, Applicants surprisingly developed an edible composition that is not tacky and that dissipates well while maintaining an excellent viscosity. Since all the important and critical limitations of the presently invention are not found in the references relied on by the Examiner, the anticipation rejection should be withdrawn and rendered moot.

Regarding obviousness, no teaching whatsoever in the references relied on by the Examiner suggests that the amount of carbohydrate may be limited. Applicants, again, have developed an edible emulsion within soluble fiber such that the edible emulsion can maintain good viscosity while at the same time dissipate quickly within the mouth of a consumer. This unexpected dissipation characteristic is one which is typical of full fat product. Applicants have been able to achieve this effect even with formulations having reduced amounts of oil

As the independent claims are novel and non-obvious, so are the claims dependent thereon.

In view of this, it is respectfully requested that the anticipation and obviousness rejections be withdrawn and rendered moot.



### **CONCLUSION**

In light of the above amendments and remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone conversation would be of assistance, Applicant's undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

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